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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,824	11/05/2001	Brian R. Beams	05222.00143	7196

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EXAMINER

ENGLAND, DAVID E

ART UNIT PAPER NUMBER

2143

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/007,824

Applicant(s)

BEAMS ET AL.

Examiner

David E. England

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1 – 19 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 4, 6 – 14 and 16 – 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eisendrath et al. (6347333) (hereinafter Eisendrath) in view of Podgorny et al. (6078948) (hereinafter Podgorny).

4. Referencing claim 1, as closely interpreted by the Examiner, Eisendrath teaches a method for establishing a virtual university, comprising the steps of:

5. connecting a virtual university server and at least one user, (e.g. col. 1, line 65 – col. 2, line 9);

6. selecting a destination within the virtual university server to interact with the at least one user, (e.g. col. 6, lines 27 – 35);

7. coupling the at least one user through the virtual university server based on the selected destination, (e.g. col. 5, lines 50 – 58), but does not specifically teach establishing interaction parameters for the at least one user based on the selected destination; and

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8. providing a selected virtual university function based on the interaction parameters and the destination, the selected virtual university function being one of a plurality of virtual university that offer a virtual university experience for the at least one user.

9. Podgorny teaches, as closely interpreted by the Examiner, establishing interaction parameters for the at least one user based on the selected destination, (e.g. col. 5, lines 9 – 32, col. 7, lines 14 – 45 & col. 9, line 38 – col. 10, line 30); and

10. providing a selected virtual university function based on the interaction parameters and the destination, the selected virtual university function being one of a plurality of virtual university, (e.g., col. 7, lines 14 – 45 & col. 9, line 38 – col. 10, line 30). It would have been obvious to one of ordinary skill in the art, at the time the invention was conceived, to combine Podgorny with Eisendrath because it would be more efficient for a system if the student identified themselves so to access information that could be private to only that or other specific students that have specific rights to the private information. Eisendrath and Podgorny do not explicitly disclose offering a virtual university experience for the at least one user. However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. All the steps of the function would be performed the same way regardless of whether or not the items corresponded to offering a virtual university experience for the at least one user or anything else. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 403-04 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to offer a virtual

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university experience for the at least one user because such experience does not functionally relate to the steps in the method claimed and because the subjective interpretation of the “experience” does not patentably distinguish the claimed invention.

11. Referencing claim 2, as closely interpreted by the Examiner, Eisendrath teaches the destinations include a virtual student union where users can interact using a bulletin board or other collaborative functions, (e.g. col. 7, lines 18 – 24).

12. As per claim 3, as closely interpreted by the Examiner, Eisendrath teaches the destinations include a virtual library where a user can user resources and consult with a virtual librarian, search for resources and collaborate with the at least one user, (e.g. col. 2, lines 36 – 54).

13. As per claim 4, as closely interpreted by the Examiner, Eisendrath teaches the destinations include a virtual administration office where a user can register for courses, search a directory, utilize a class locator, consult with the administration help desk, (e.g. col. 7, lines 18 – 24),

14. add a course, (e.g. col. 2, lines 23 – 35), drop a course, (e.g. col. 7, line 66 – col. 8, line 12), and utilize a career center, (e.g. col. 1, line 65 – col. 2, line 9).

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15. As per claim 6, as closely interpreted by the Examiner, Eisendrath teaches the destinations include a university directory that provides information on persons and entities associated with the university, (e.g. col. 6, lines 27 – 35).

16. As per claim 7, as closely interpreted by the Examiner, Eisendrath teaches tests are applied to the users, (e.g. col. 7, lines 1 – 10).

17. As per claim 8, as closely interpreted by the Examiner, Eisendrath teaches any two users can collaborate in the virtual university, (e.g. col. 8, lines 13 – 20 & col. 10, lines 56 – 60).

18. As per claim 9, as closely interpreted by the Examiner, Eisendrath teaches grades are distributed electronically, (e.g. col. 7, lines 34 – 42).

19. Claims 10 – 14 and 16 – 19 are rejected for similar reasons as stated above.

20. Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eisendrath and Podgorny as applied to claim 1 above and, in further view of what is well known in the art.

21. As per claim 5, as closely interpreted by the Examiner, Eisendrath teaches the destinations include a virtual classroom where a user can learn, (e.g. col. 5, lines 50 – 58 & col. 6, lines 3 – 19),

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22. view a directory of other students in a current class, (e.g. col. 7, lines 43 – 57),
23. view materials, (e.g. col. 9, lines 57 – 63),
24. grades, (e.g. col. 8, lines 31 – 52),
25. announcements, (e.g. col. 8, lines 31 – 52),
26. homework, (e.g. col. 9, lines 57 – 63),
27. administer tests, (e.g. col. 7, lines 1 – 10),
28. ask questions of an instructor, (e.g. col. 7, lines 18 – 24),
29. review lectures, (e.g. col. 7, lines 18 – 24),
30. view the class schedule and view research topics, (e.g. col. 7, line 66 – col. 8, line 12 & col. 10, lines 27 – 36), but doesn't specifically teach enter a virtual breakout room, review old tests.
31. Podgorny teaches a virtual breakout room, (e.g. col. 5, lines 9 – 19). It would have been obvious to one of ordinary skill in the art, at the time the invention was conceived, to combine Podgorny with Eisendrath because letting students interact in other manners that does not require academic activities on the same program that has a plurality of different academic amenities allows a user to stay on the same web site and not have to log off and log onto the system again to find other means to break from academic work.
32. Podgorny does not specifically teach review old tests.
33. Although, Eisendrath and Podgorny do not specifically teach reviewing old tests, Eisendrath does state that an instructor and/or a user can post documents on the system for other users to view. It would be obvious that if a user can post any type of documents on the system, then the user can post documents like homework, events that are coming up, syllabus, current

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student enrolment and even old tests for studying. An old test is just a label for a document, it has no special coding or configuring that would differentiate it from other types of documents that can be posted, (like homework or a syllabus).

34. Therefore, Examiner takes Official Notice (see MPEP § 2144.03) that " review old tests " in a computer networking environment was well known in the art at the time the invention was made. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03, namely, "if applicant traverses such an assertion, the examiner should cite a reference in support of his or her position". However, MPEP § 2144.03 further states "See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, In re Boon, 169 USPQ 231, 234 states "as we held in Ahlert, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

35. Claim 15 is rejected for similar reasons as stated above.

Response to Arguments

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36. Applicant's arguments filed 09/12/2005 have been fully considered but they are not persuasive.

37. **In the Remarks**, Applicant argues in substance that the combination of Eisendrath and Podgorny fails to even suggest the features of “establishing interaction parameters for the at least one user based on the selected destination” and “providing a selected virtual university function based on the interaction parameters and the destination, the selected virtual university function being one of a plurality of virtual university functions that offer a virtual university experience for the at least one user.” Furthermore, Podgorny merely discloses different rooms and fails to suggest any interaction parameters based on a specific room.

38. As to the first Remark, the claimed limitation of “interaction parameters” does not describe what the parameter is only that it is “interactive”. This could mean that it is a GUI parameter, user privileges, computer parameters, etc, and therefore has a broad range of interpretations. Now, Applicant is asked to draw their attention to the prior art of Podgorny, columns 5 supra. Starting at line 20 of column 5 it states a, “Sessions may have “privileged” users. For example, the applications may be implemented so that one user maintains control over whether another user may join the session and become a session participant.” This would mean that a user is given specific abilities to perform actions with their sessions, or as can be interpreted, once that user signs in the parameters linked to that user are for that session let them have interaction privileges to perform those actions described above. Now if the Applicant draws their attention to column 7, line 28, it specifically states that, “The control logic 225 is also responsible for providing an interface to the **user to display relevant information and to allow**

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the user's initiation of collaborative actions. This user-interface is room specific." This would mean that a user has parameters that are connected to their session and that to allow them to perform specific actions. Furthermore, the user-interface is "room specific" which means that it is a "destination" in the chat rooms that gives them the ability to utilize their specific interface that is downloaded in an applet as seen in the paragraphs following this cited area. All other independent claims fall under the same rationale as described above.

39. Furthermore, when reviewing a reference the applicants should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. In re Preda, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In re Sovish, 769 F. 2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby, 309 F. 2d 513, 135 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969). Every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein. In re Bode, 550 F. 2d 656, 193 USPQ 12 (CCPA 1977).

40. Applicant does not argue the Official Notice stated for claims 5 and 15. Therefore, Applicant has failed to seasonably challenge the Examiner's assertions of well known subject matter in the previous Office action(s) pursuant to the requirements set forth under MPEP

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§2144.03. A "seasonable challenge" is an explicit demand for evidence set forth by Applicant in the next response. Accordingly, the claim limitations the Examiner considered as "well known" in the first Office action, i.e. "review old tests", are now established as admitted prior art of record for the course of the prosecution. See *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

Conclusion

41. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 571-272-3912.

The examiner can normally be reached on Mon-Thur, 7:00-5:00.

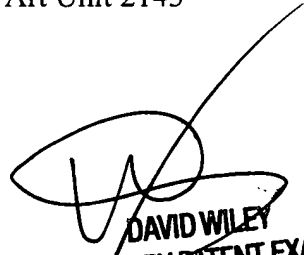
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David E. England
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Art Unit 2143

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